HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 25725 OF 2006

DATED: 11.12.2006

Between:

K. Srinivasa Rao

… Petitioner

and

The Commissioner (Appeals),
Office of the Chief Commissioner of
Land Administration, A.P., Hyderabad and others

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 25725 OF 2006

ORAL ORDER:

The writ petition is directed against an order of the 1st respondent-the learned Commissioner (Appeals) of Land Administration, Andhra Pradesh, Hyderabad bearing reference No. CCLA's Ref.No.BCW5/663/2006 dated 7.12.2006, rejecting the petitioner's application for interim relief, sought in an appeal.

Case of the petitioner:

The petitioner while working in the Indian Army applied to the Chief of the Army for assignment of a poramboke land in Sy.Nos. 254/C2 and C4, Chavali village, Vemuru Mandal, of an extent of Ac.1.82 cents.

2). The Army Chief recommended to the 2nd respondent that the petitioner be assigned land. The 2nd respondent directed the 4th respondent to take appropriate measures for allotment of the land to the petitioner.

3). The 4th respondent thereupon inspected the land sought by the petitioner for assignment and notified on 8.7.1993 inviting objections for the assignment.

4). The Gram Panchayat, Chavali also passed a resolution on 20.12.1993 communicating no objection for the assignment of the land to the petitioner.

5). The 4th respondent accorded permission to the petitioner to occupy the land and cultivate the same, pending consideration of his application for assignment, in 1994. The petitioner thereupon invested money to improve the land and bring it to cultivation.

6). In the proceedings of the 3rd respondent bearing Rc.No.1801/95 dated 24.5.1996, the classification of the land in question was converted from “footpath poramboke” to “assessed waste” and a D-form patta was issued to the petitioner on 8.11.1997. Patta passbooks and title deeds were also issued in favour of the petitioner.

7). On 9.5.2006, the 2nd respondent issued a show cause notice to the petitioner calling upon him to explain why the D-form patta issued in his favour be not cancelled. The petitioner submitted his explanation. The petitioner later learnt that he was dismissed from Army service from 1998. The 2nd respondent by proceedings Rc.No.900/06/E2 dated 13.10.2006 cancelled the assignment in favour of the petitioner on the ground that he had obtained D-form patta by misrepresenting facts.

8). Thereagainst, the petitioner preferred a revision to the 1st

respondent on 10.11.2006 under Board Standing Order 15 (18) (2), questioning the cancellation order dated 13.10.2006 of the 2nd respondent. Along therewith, he filed an application for interim relief.

As the 1st respondent did not dispose of the petitioner's application for interim relief and he was threatened with dispossession (consequent on the cancellation orders passed by the 2nd respondent), the petitioner preferred W.P.No.25434 of 2006. On the basis of the representation made by the learned Government Pleader on 6.12.2006 that the petitioner's stay application was disposed of on 1.12.2006 itself, the petitioner withdrew the said writ petition. The petitioner applied for a certified copy of the order rejecting his stay petition and learnt that the stay petition was in fact rejected not on 1.12.2006 (as represented by the learned Government Pleader) but on 7.12.2006.

The order of the 1st respondent dated 7.12.2006 reads as under:

> "Kasaraneni Srinivasa Rao, S/o Ranga Rao of Guntur district has filed a Revision Petition in the ref.1st cited against the orders of the Joint Collector, Guntur District passed in his Proceedings reference 1st cited.
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> After examining the Revision Petition together with its material papers, the Commissioner of Appeals, Andhra Pradesh, Hyderabad has admitted the Revision Petition and stay rejected.
>
> A copy of the Revision Petition ref. 1st cited is furnished herewith to the Collector, Guntur District. He is requested to send all the connected records and parawise remarks on the Revision Petition immediately."

It is apparent that no reasons are recorded for rejecting the

petitioner's application for stay. The 1st respondent exercises quasi judicial authority; in considering the substantive appeal as also in considering the application for interim relief. Integral to the exercise of such quasi judicial authority, is a discipline that ordains reasons to be recorded for any order, including an interlocutory order rejecting an application for stay. Where speech is mandated; silence cannot be a legitimate option. The order of the 1st respondent laconically rejecting the petitioner's application for interim relief, without recording any reason whatsoever, beseeches invalidation. It is accordingly set aside.

As the first respondent has, in transgression of the forensic discipline of a quasi judicial authority, rejected the petitioner's application for interim relief, without recording any reasons for the decision, the writ petition is allowed with costs of Rs.1500/- (rupees fifteen hundred only) payable by the State to the petitioner, within a period of two weeks from today. The 1st respondent is also directed to pass a reasoned order on the petitioner's application for interim relief, within a period of 48 hours from the date of receipt of a copy of this order and to communicate the reasoned decision arrived thereat, to the petitioner within the aforesaid time. In this, the 1st respondent shall fail not. It is emphasized that nothing in this order shall be construed as an expression by this court on the merits of the petitioner's appeal or on the petitioner's application for interim relief. The learned Commissioner (Appeals) shall dispose of the interlocutory application

of the petitioner, independently on merits, but after recording reasons.

The writ petition is allowed with costs, as above.

GODA RAGHURAM, J

Date: 11.12.2006
CVM